



Legislation Details (With Text)

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Type: Resolution (Non-Consent) **Status:** Passed
File created: 7/31/2017 **In control:** County Attorney
On agenda: 9/26/2017 **Final action:** 9/26/2017
Enactment date: 9/26/2017 **Enactment #:** 2017-232
Title: Commissioner Brown - County Attorney - To PROVIDE AN ADVISORY OPINION TO THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) RECOMMENDING AN ABANDONMENT OF THE EASTERNMOST 315 FEET OF BAY SHORE DRIVE
Sponsors: Chad Brown

Indexes:

Code sections:

Attachments: 1. Adopted 2017-232, 2. Resolution, 3. Map - Kennedy Road Closure

Date	Ver.	Action By	Action	Result
9/26/2017	1	Board of Commissioners	approved	Pass
8/22/2017	1	Board of Commissioners	tabled	

Commissioner Brown - County Attorney - ***To PROVIDE AN ADVISORY OPINION TO THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) RECOMMENDING AN ABANDONMENT OF THE EASTERNMOST 315 FEET OF BAY SHORE DRIVE***

STAFF CONTACT

Charles Moore - County Attorney - 704-866-3400

BUDGET IMPACT

N/A

BUDGET ORDINANCE IMPACT

N/A

BACKGROUND

Gerald and Sonya Kennedy seek to close approximately Three Hundred and Fifteen (315) feet of the easternmost section of Bay Shore Drive, as indicated on the attachment. The Petitioners as well as HK Paradise Point, LLC (which was formed by the Petitioners) own the property surrounding the proposed area to be closed. The relevant Parcel Identification Numbers are depicted on the attached map.

The North Carolina Department of Transportation (NCDOT) owns and controls the right of way (ROW) and has ultimate authority concerning whether or not to abandon Bay Shore Drive (abandoned roads are no longer maintained by the State). However, NCDOT policy requires the relevant local governing body to provide an advisory opinion on whether or not the subject area should be abandoned. Although not binding, the NCDOT will take any such recommendation into consideration for an action to ABANDON the entire or partial ROW of Bay Shore Drive.

The Board of Commissioners held a public hearing at its Regular Meeting of August 22, 2017. Although it wasn't required, Planning staff determined it was prudent to enable all interested parties to speak either for or against such

proposed action due to the interest expressed by nearby and adjacent property owners.

If the NCDOT elects to abandon the road, the road can only be officially closed by Gaston County at another public hearing pursuant to NC General Statute. This is done by an official request by a Petitioner along with the payment of a filing fee. If the NCDOT does not abandon the road, Gaston County has no authority to close the subject road.

Provided that the turn-around is created as indicated on the attached map, Planning staff has no objections to the ultimate desire of the Petitioner, which is to close a portion of Bay Shore Drive. If the subject area is closed, the entities on either side of the area will take ownership to the center line of the right of way. Planning staff does not have any opinion concerning whether the NCDOT should abandon the right of way. However, Planning staff does wish to emphasize that if the road is abandoned by the NCDOT ***all maintenance of the road will be the responsibility of property owners along Bay Shore Drive; the State will not contribute monies for right of way improvements.***

The Board of Commissioners tabled the item to the next Regular Meeting and requested representatives from NCDOT be present. On 9/26/2017, the BOC unanimously voted to provide a recommendation to the NCDOT for the abandonment of the requested three hundred and fifteen (315) feet of the easternmost section of Bay Shore Drive. The adopted Resolution and Map were forwarded to NCDOT.

POLICY IMPACT

N/A

ATTACHMENTS

Revised Resolution; Map of proposed right of way closure and turn-around area